COMMITTEE AMENDMENT TABLED AND AMENDED

May 19, 2011

**H. 3295**

Introduced by Rep. Herbkersman

S. Printed 5/19/11--S. [SEC 5/20/11 2:38 PM]

Read the first time February 2, 2011.

**A** **BILL**

TO AMEND SECTION 61‑6‑1820, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CRITERIA FOR A NONPROFIT ORGANIZATION TO OBTAIN A LICENSE TO SELL ALCOHOLIC LIQUORS BY THE DRINK, SO AS TO PROVIDE THAT UNDER CERTAIN CONDITIONS A HOMEOWNERS ASSOCIATION, CHARTERED AS A NONPROFIT ORGANIZATION BY THE SECRETARY OF STATE, WHOSE MEMBERSHIP IS LIMITED TO INDIVIDUALS WHO OWN PROPERTY IN THE RESIDENTIAL COMMUNITY AND WHOSE AFFAIRS ARE GOVERNED BY A BOARD OF DIRECTORS ELECTED BY THE MEMBERSHIP, IS ALSO ELIGIBLE FOR SUCH A LICENSE.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 61-6-20 of the 1976 Code, as last amended by Act 320 of 2008, is further amended to read:

“Section 61-6-20. As used in the ABC Act, unless the context clearly requires otherwise:

(1)(a) ‘Alcoholic liquors’ or ‘alcoholic beverages’ means any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them by whatever name called or known which contains alcohol and is used as a beverage, but does not include:

(i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or

(ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.

(b) ‘Alcoholic liquor by the drink’ or ‘alcoholic beverage by the drink’ means a drink poured from a container of alcoholic liquor, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.

(2) ‘Bona fide engaged primarily and substantially in the preparation and serving of meals’ means a business that provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals and that:

(a) is equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals upon customer request at normal meal times;

(b) has readily available to its guests and patrons either menus with the listings of various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and

(c) prepares for service to customers, upon the demand of the customer, hot meals at least once each day the business establishment chooses to be open.

(3) ‘Homeowners association chartered as a nonprofit by the Secretary of State’ means an organization that has been recognized as a nonprofit by the Secretary of State, that contains, within the residential community, a business ‘bona fide engaged primarily and substantially in the preparation and serving of meals’, as defined by Section 61-6-20(2), whose membership is limited to individuals who own property in the residential community, and whose affairs are governed by a board of directors elected by the membership. No member, officer, agent, or employee of the association may be paid a salary or other form of compensation from any of the profit of the sale of alcoholic beverages, except as may be voted on at a meeting of the governing body, nor shall the salaries or compensation be in excess of reasonable compensation for the services actually performed. Additionally, a ‘homeowners association chartered as a nonprofit by the Secretary of State’ must abide by all alcoholic liquor regulations that apply to a nonprofit organization, as defined by Section 61-6-20(7), except that upon dissolution of the ‘homeowners association chartered as a nonprofit by the Secretary of State’, the remaining assets, if any, may be distributed to its members. A ‘homeowners association chartered as a nonprofit by the Secretary of State’ that receives a license or licenses pursuant to this chapter shall use these licenses only in businesses ‘bona fide engaged primarily and substantially in the preparation and serving of meals’ within the boundaries of the homeowners association.

(4) ‘Manufacturer’ means a person operating a plant or place of business in this State for distilling, rectifying, brewing, fermenting, blending, or bottling alcoholic liquors.

~~(4)~~(5) ‘Furnishing lodging’ means those businesses which rent accommodations for lodging to the public on a regular basis consisting of not less than twenty rooms.

~~(5)~~(6) ‘Minibottle’ means a sealed container of fifty milliliters or less of alcoholic liquor.

~~(6)~~(7) ‘Nonprofit organization’ means an organization not open to the general public, but with a limited membership and established for social, benevolent, patriotic, recreational, or fraternal purposes.

~~(7)~~(8) ‘Producer’, as used in the ABC Act, means a manufacturer, distiller, rectifier, blender, or bottler of alcoholic liquors and includes an importer of alcoholic liquors engaged in importing alcoholic liquors into the United States.

~~(8)~~(9) ‘Producer representative’ means a person who is a citizen of this State, who maintains his principal place of abode in this State, and who is registered with the department pursuant to Article 7 of this chapter as the South Carolina representative of a registered producer.

~~(9)~~(10) ‘Registered producer’ means a producer who is registered with the department pursuant to Article 7 of this chapter.

~~(10)~~(11) ‘Retail dealer’ means a holder of a license issued under the provisions of Article 3 of this chapter, other than a manufacturer or wholesaler.

~~(11)~~(12) ‘Wholesaler’ means a person who purchases, acquires, or imports from outside this State or who purchases or acquires from a manufacturer in the State alcoholic liquors for resale.”

SECTION 2. Section 61-6-1820(1) of the 1976 Code, as last amended by Act 70 of 2003, is further amended to read:

“(1) The applicant is a bona fide nonprofit organization, a homeowners association chartered as a nonprofit organization by the Secretary of State, or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging.”

SECTION 3. Chapter 6, Title 61 of the 1976 Code is amended by adding:

“Section 61‑6‑2015. (A) A temporary permit to sell beer and wine for on‑premises consumption for a period not to exceed twenty‑four hours without regard to the days or hours of these sales is hereby authorized. This permit may be issued by the department for the same fees provided in Section 61‑4‑500 for a retail beer and wine permit, including an application fee. This permit shall be considered a biennial temporary permit, and may be issued to those holders of a permit to sell beer and wine for off‑premises consumption during periods other than Sunday who have within the licensed premises a separate food service establishment serving prepared food for on‑premises consumption. The permit to sell beer and wine for on‑premises consumption during the twenty‑four hour period shall apply only to this separate food service establishment.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, and these permits may be issued only to qualified applicants located in a county or municipality which pursuant to Section 61‑6‑2010 has successfully held a referendum allowing the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours.”

SECTION 4. Section 61-6-2010 of the 1976 Code, as last amended by Act 353 of 2008, is further amended by adding:

“(G) A business establishment located within a building on the grounds of an international airport in this State where the possession, sale, and consumption of alcoholic liquors by the drink is permitted on its licensed premises may apply for and receive a temporary permit authorized by this section, notwithstanding any other requirements of this section to the contrary, to allow the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty‑four hours on its licensed premises if any county within the territory of the airport district which operates the international airport or any municipality located within the territory of the district has approved, by referendum, the issuance of these temporary permits.”

SECTION 5. This act takes effect upon approval by the Governor.

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